

REMARKS

Claims 1-24 are pending in the present application. Claims 1-24 have been rejected. No claims have been allowed. No claims have been amended. Claims 25-24 have been canceled. New claims 25-26 have been added.

I. Summary of Telephonic Interview

The Examiner is hereby acknowledged and thanked for the courtesy extended during the telephonic interview of March 1, 2004 between Examiner Duran and the undersigned attorney. The pending claims, current Office Action and prior art were all discussed during this telephonic interview, with particular focus on the identity of inventorship between the present case and the primary prior art references being used. Agreement was reached with respect to the need for additional prior art and review to maintain the pending rejections. A suggestion was then made to amend or add to the pending claims to further differentiate over the remaining prior art in the case, which has been accomplished herein.

II. Claim Rejections under 35 U.S.C. § 103

Claims 1-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,394,907 to Rowe ("the '907 Patent") in view of U.S. Provisional Application No. 60/200,329 to Rowe ("the '329 Application") in further view of U.S. Patent No. 6,500,067 to Luciano ("Luciano"). Applicant respectfully traverses these rejections.

In sum, Applicant respectfully submits that the '907 Patent and the '329 Application are not prior art with respect to the presently claimed invention. 35 U.S.C. § 103(a) states, "A patent may not be obtained . . . if the differences between the subject matter sought to be patented and the *prior art* are such that the subject matter as a whole would have been obvious . . ." (emphasis added). Applicant respectfully submits, however, that Applicant is

the sole named inventor of both the '907 Patent and the '329 Application. In addition, neither of these references was published at the time the present application was filed. Accordingly, neither of these references are "by another," neither was published prior to any significant date with respect to the present application, and as such neither can be used as prior art in the context of any obviousness rejection for at least this reason. Furthermore, the '907 patent, which is the primary reference used in the pending rejections, issued from an application that was filed on August 25, 2000. Conversely, the present application was filed prior to this date, specifically on August 3, 2000. Accordingly, use of the '907 patent as prior art in the present rejections is inappropriate for at least this reason as well.

For at least the foregoing reasons, Applicant respectfully requests the removal of both the '907 Patent and the '329 Application as prior art references in the present application. Applicant thus also respectfully requests the withdrawal of the pending obviousness rejections as a result of these references no longer being usable. In so doing, Applicant emphasizes that both of these references are Applicant's own references, such that the present request for removal of these references need not indicate or suggest anything regarding what these references disclose and how such disclosures might or might not relate to any aspect of the present invention.

As a result of the removal of both the '907 Patent and the '329 Application as prior art references in the present application, Applicant respectfully submits that pending claims 1-24 are all patentable over the prior art of record. Nevertheless, in the interests of further expediting prosecution, Applicant has canceled claims 23-24 in favor of claims 25-26, to further distinguish that which is already patentable over the remaining prior art of record.

III. New Claims

Claims 25-26 are new. Support for each of these new claims can be found throughout the specification and original claims as filed. Applicant respectfully submits that no new

matter has been introduced by way of new claims 25-26, and that these claims are patentable


over the prior art for at least the same reasons given for claims 1-22 above.

CONCLUSION

Applicant respectfully submits that all claims are in proper form and condition for patentability, and requests a Notification of Allowance to that effect. It is believed that no fees are due at this time. Should any fee be required for any reason related to this document, however, then the Commissioner is hereby authorized to charge said fee to Deposit Account No. 50-0388, referencing Docket No. IGT1P116. The Examiner is respectfully requested to contact the undersigned attorney at the telephone number below with any questions or concerns relating to this document or application.

Respectfully Submitted,
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Date: March 7, 2005



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